

AUG. 8. 2003 9:32AM MENDEL-BIOTECHNOLOGY

1638  
NO. 739 P. 1

21375 Cabot Boulevard  
Hayward, California 94545  
Telephone: (510) 264-0280  
Facsimile: (510) 264-0254

## Mendel Biotechnology, Inc.

To: U.S. PATENT AND TRADEMARK OFFICE  
ATTN: Examiner David H. Kruse  
Group Art Unit 1638

Facsimile: (703) 872-9307  
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From: Jeffrey M. Libby, Ph.D.,

Date: August 8, 2003

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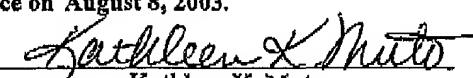
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### CERTIFICATE OF FACSIMILE TRANSMISSION

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Kathleen K. Muto

RE: APPLICATION NO.: 09/533,029

DOCKET NO.: MBI-0010

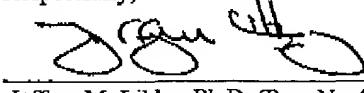
FILED: March 22, 2000

TITLE: TRANSGENIC PLANTS COMPRISING POLYNUCLEOTIDES ENCODING  
TRANSCRIPTION FACTORS THAT CONFER DISEASE TOLERANCE

Enclosures:

- 1) Transmittal Form (1 pg.);
- 2) Fee Transmittal Form (1 pg.); and
- 3) Response to Advisory Action and Amendment (5 pgs.).

Respectfully,

  
Jeffrey M. Libby, Ph.D. (Reg. No.48,251)

AUG. 8. 2003 9:33AM MENDEL-BIOTECHNOLOGY

NO. 739 P. 2

PTO/SB/21 (03-03)

Approved for use through 04/30/2003, OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

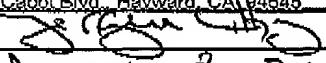
(to be used for all correspondence after initial filing)

		Application Number	08/533,029
		Filing Date	3/22/2000
		First Named Inventor	HEARD, Jacqueline E.
		Art Unit	1638
		Examiner Name	David H. Kruse
Total Number of Pages in This Submission	7	Attorney Docket Number	MBI-0010 CPA

**ENCLOSURES (Check all that apply)**

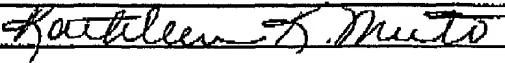
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual	Jeffrey M. Libby, Ph.D., Reg. No. 48,261 Mendel Biotechnology, Inc. 21375 Cabot Blvd., Hayward, CA 94545
Signature	
Date	August 8, 2003

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Typed or printed	Kathleen K. Muto
Signature	
Date	8-8-03

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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AUG. 8. 2003 9:33AM MENDEL-BIOTECHNOLOGY

NO. 739 P. 3

PTO/SB/17 (01-03)

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# FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)-0-

## Complete if Known

Application Number	09/533,029
Filing Date	3/22/2000
First Named Inventor	HEARD, Jacqueline E.
Examiner Name	David H. Kruse
Art Unit	1638
Attorney Docket No.	MSI-0010 CPA

## METHOD OF PAYMENT (check all that apply)

Check  Credit card  Money Order  Other  None

Deposit Account:

Deposit Account Number  
50-1025

Mendel Biotechnology, Inc

The Commissioner is authorized to: (check all that apply)

- Charge fee(s) indicated below  Credit any overpayments  
 Charge any additional fee(s) during the pendency of this application  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1001	750	2001 375 Utility filing fee	
1002	330	2002 165 Design filing fee	
1003	520	2003 260 Plant filing fee	
1004	750	2004 375 Reissue filing fee	
1005	160	2005 80 Provisional filing fee	
<b>SUBTOTAL (1)</b>		<b>(\$ 0.00)</b>	

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent	-20** =	X =	=
Claims	- 3** =	X =	=
Multiple Dependent			

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
1202	18	2202 9 Claims in excess of 20
1201	84	2201 42 Independent claims in excess of 3
1203	280	2203 140 Multiple dependent claim, if not paid
1204	84	2204 42 ** Reissue independent claims over original patent
1205	18	2205 9 ** Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2)</b>		<b>(\$ 0.00)</b>

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee (\$)	Fee Description	Fee Paid
1051	190	2051 65 Surcharge - late filing fee or oath	
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet	
1053	190	1053 130 Non-English specification	
1812	2,520	1812 2,520 For filing a request for ex parte reexamination	
1804	920*	1804 920* Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805 1,840* Requesting publication of SIR after Examiner action	
1251	110	2251 55 Extension for reply within first month	
1252	410	2252 205 Extension for reply within second month	
1253	930	2253 465 Extension for reply within third month	
1254	1,450	2254 725 Extension for reply within fourth month	
1255	1,970	2255 985 Extension for reply within fifth month	
1401	320	2401 160 Notice of Appeal	
1402	320	2402 160 Filing a brief in support of an appeal	
1403	280	2403 140 Request for oral hearing	
1451	1,510	1451 1,510 Petition to Institute a public use proceeding	
1452	110	2452 55 Petition to revive - unavoidable	
1453	1,300	2453 650 Petition to revive - unintentional	
1501	1,300	2501 650 Utility issue fee (or reissue)	
1502	470	2502 235 Design issue fee	
1503	630	2503 315 Plant issue fee	
1460	130	1460 130 Petitions to the Commissioner	
1807	50	1807 50 Processing fee under 37 CFR 1.17(q)	
1806	180	1806 180 Submission of Information Disclosure Stmt	
8021	40	8021 40 Recording each patent assignment per property (times number of properties)	
1809	750	2809 375 Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810 375 For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801 375 Request for Continued Examination (RCE)	
1802	900	1802 900 Request for expedited examination of a design application	
Other fee (specify)			
*Reduced by Basic Filing Fee Paid			
<b>SUBTOTAL (3)</b>		<b>(\$ 0)</b>	

(Complete if applicable)

Name (Print/Type)	Jeffrey M. Libby, Ph.D.	Registration No. (Attorney/Agent)	48,251	Telephone	510-259-6138
Signature					
Date	Aug 8, 2003				

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Patent Application

Atty Docket No. MBI-0010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of Jacqueline HEARD *et al.* ) Examiner: David H. Kruse  
Serial No.: 09/533,029 )  
Filed: March 22, 2000 ) Art Unit: 1638  
Title: TRANSGENIC PLANTS COMPRISING )  
POLYNUCLEOTIDES ENCODING TRANSCRIPTION )  
FACTORS THAT CONFER DISEASE TOLERANCE )  
RESPONSE TO ADVISORY ACTION

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Commissioner for Patents  
Mail Stop AF  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

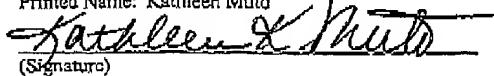
This response regarding the above-referenced application is filed in response to the Advisory Action mailed July 21, 2003, and supplemental to the Response to Final Rejection mailed January 8, 2003, for the above-identified patent application, and is submitted before Monday, August 18, 2003, the two month anniversary of receipt of the Notice of Appeal at the USPTO falling on Saturday, August 16, 2003. Please consider and make of record the following amendments and remarks. Entry of these amendments is respectfully requested.

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on August 8, 2003.

Printed Name: Kathleen Muto

  
(Signature)